

Exhibit A

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EXHIBIT A DISCUSSION

Prior to discussing the project's inconsistencies with applicable policies and regulations, it is important to first disclose the misleading and inaccurate information presented in the project plans.

Existing Topographic Conditions

Sheet A13 of the attached project plans (**Exhibit B1**) illustrates two terrain lines (see Figure 1). The Applicant/Owner asserts that a previous natural landmass was removed after the Oakshire subdivision was approved and such grade should be considered when determining average natural grade. This "prior" grade is labeled as "Elevation Line of Natural Terrain" on Sheet A13. Below this terrain line, is another grade labeled as "Line of Terrain after Oakshire Ph. (II-III) Development". As demonstrated throughout the attached plans (**Exhibit B1**), the project plans assume that the "Line of Terrain after Oakshire Ph. (II-III) Development" represents current conditions.

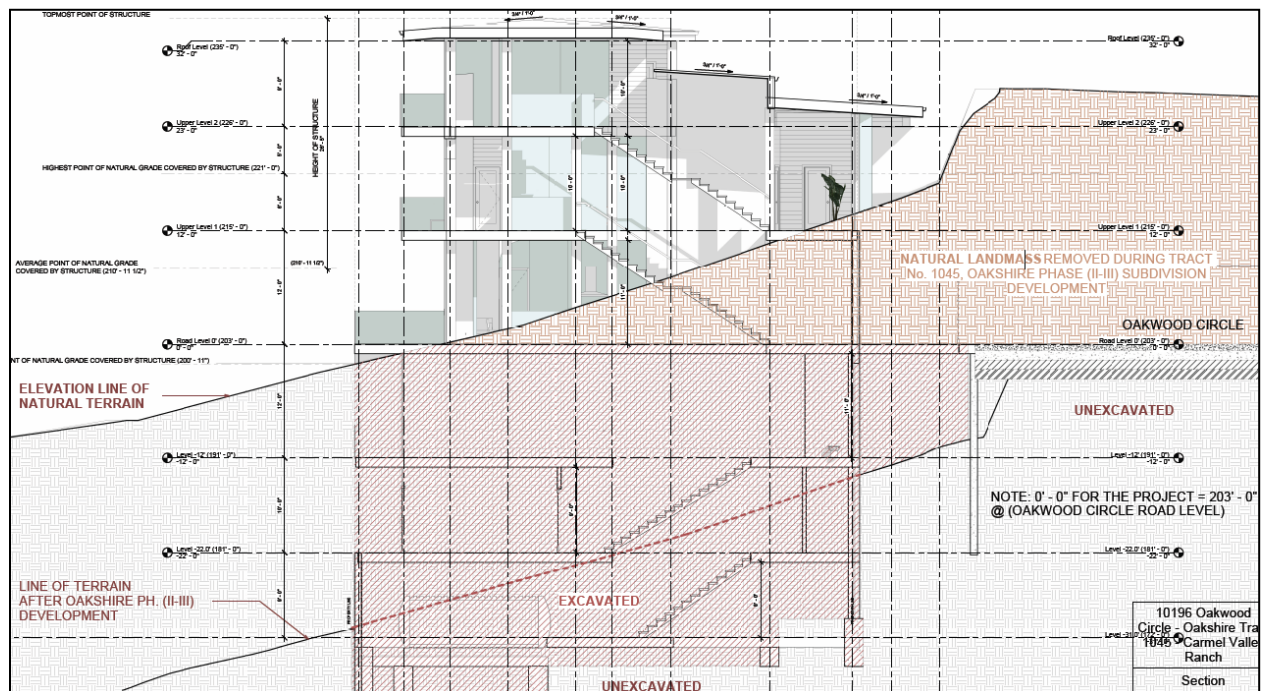


Figure 1. Sheet A13, Section.

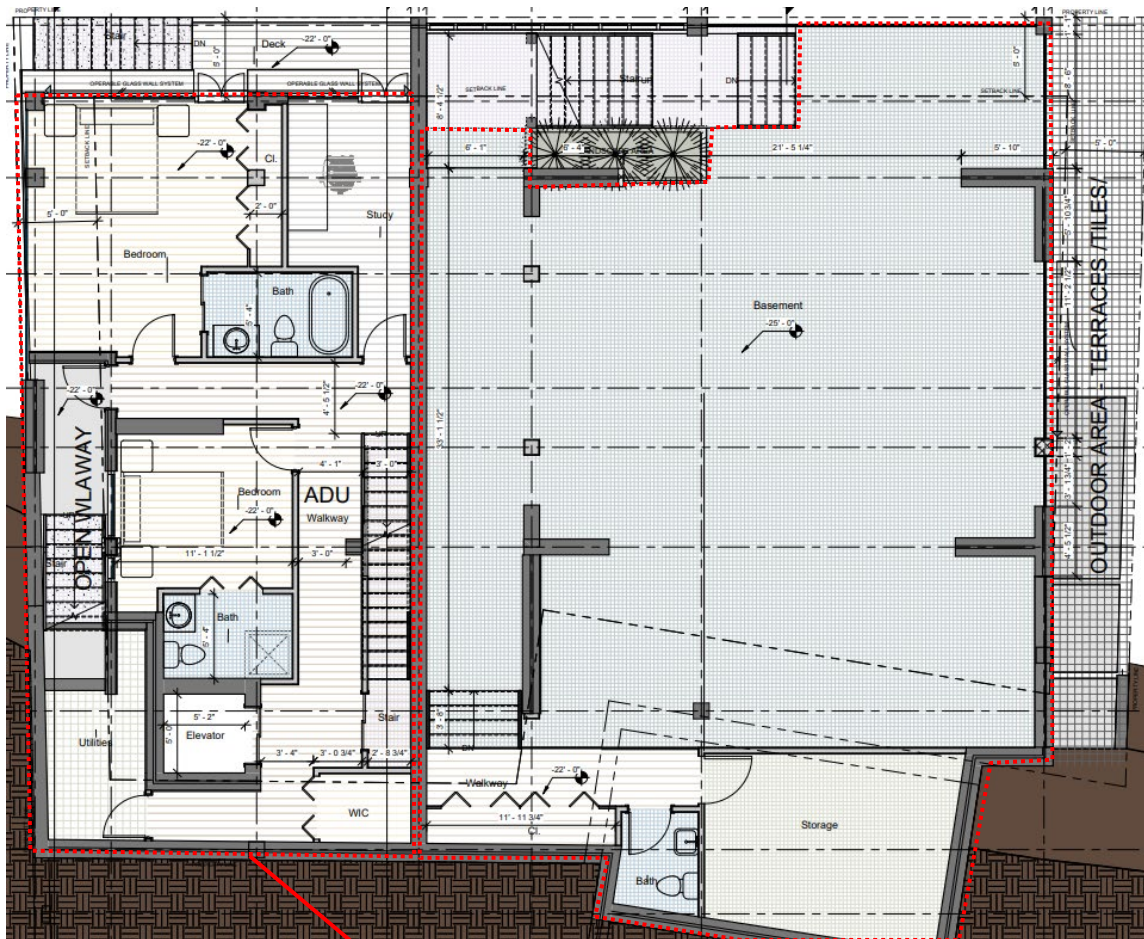
To confirm which terrain line represents current conditions, HCD-Planning staff contacted the project surveyor (Monterey Bay Engineers, Inc) and consulted United States Geological Survey (USGS) maps. The project surveyor confirmed that the elevations shown on Sheet A14 (Topographic Survey) of the attached project plans (**Exhibit B1**) accurately depict the existing elevations of the property and surrounding area. The elevations depicted on Sheet A14 correspond with elevation data provided on USGS maps. Based on the topographic survey and USGS information, the portion of Oakwood Circle Road that abuts the subject property has elevations above mean sea level (AMSL) of 230 feet to 227 feet. The subject property, which steeply drops off from Oakwood Circle Road, has elevations of approximately 221 feet to 199 feet AMSL. The current topographical conditions generally correspond with the illustrated "Elevation Line of

Natural Terrain”. Contrary to this information, the Applicant/Owner has designed the project based on an erroneous supposition that the existing road and site conditions are approximately 27 feet below current conditions – claiming elevation of 203 feet AMSL for the road and 174 feet to 194 feet AMSL for the subject property. These incorrect elevations are depicted as the “Line of Terrain After Oakshire Ph. (II-III) Development”. HCD-Planning staff informed the Applicant/Owner of this error, but no revised plans have been provided as of date. By utilizing a grade condition that does not exist, the project plans and related technical reports dramatically underestimate the required ground disturbance and related site alterations necessary to support the project, as well as the resulting environmental impacts. Additionally, the grading required to accommodate the proposed residence would impact the functionality of Oakwood Circe, create a public health hazard, and be in conflict with the property’s sanitary sewer easement. These project issues are detailed below.

Project Square Footage

Monterey County Code requires that the square footage of each floor must be “...measured from the exterior face of the enclosing walls”. The Project Data table on Sheet A0 identifies the square footage of the residential structure’s five levels (Levels 3, 2, 1, -1, and -2). However, as illustrated in the detailed floor plans and elevations (see Sheet A12), the proposed residential structure contains six levels. Therefore, the square footage total listed on Sheet A0 is unrepresentative of the proposed project’s total size. Additionally, staff has concerns that the provided square footages are not calculated correctly. For example, the proposed basement shown on Sheet A6 is listed at 385 square feet, however, the adjacent lower level of the proposed ADU, also shown on Sheet A6 and visibly smaller than the basement area, is listed at 800 square feet (see Figure 2). Thus, in addition to the Applicant/Owner electing not to provide the sixth (lowest) floor’s square footage, the provided square footage appears to be calculated incorrectly. HCD-Planning staff requested that the project plans be updated with the correct square footage information, however, the Applicant/Owner has yet to comply with this request.

Based on the Project Data table (see Sheet A0 of **Exhibit B1**), the project consists of a 7,112 square foot six-story single-family dwelling (inclusive of stairs, entry, and elevator) with an attached 832 square foot garage, an attached 1,600 square foot ADU, an attached 483 square foot JADU, and 2,347 square feet of covered and uncovered decks, for a total square footage of 12,374 square feet. Given the apparent inconsistencies of Sheet A6, staff manually calculated the floor area for the entire structure using the provided ¼ inch to 1-foot scale. Per staff’s rough calculations, the project consists of a 12,469.5 square foot six-story single-family dwelling with an attached 934 square foot garage, an attached 2,124 square foot ADU, an attached 483 square foot JADU, and 3,419.5 square feet of covered and uncovered decks, patios, and exterior staircases, for a total square footage of 19,430 square feet. Staff’s calculations indicate that the residential structure is approximately 7,056 square feet larger than the Applicant’s calculations. Since the project site is part of a planned unit development (PUD), it is not subject to floor area ratio (FAR) or lot coverage limitations. Consequently, the total floor area of the project is not required to determine consistency with FAR requirements. However, providing accurate information is required for consideration of the project and the project’s total square footage contributes to its bulk and mass, which is discussed below.



PROJECT DATA

	STAIRS/ENTRY /ELEVATOR	ENCLOSED LIVING AREA	BALCONY/ DECK	LANDSCAPE AREA	ADU	JADU	GARAGE AREA	TOTAL ENCLOSED LIVING AREA
LEVEL 3	63 SF	737 SF	474 SF					737 SF
LEVEL 2	186 SF	1635 SF	524 SF			483 SF		2118 SF
LEVEL 1	459 SF	1782 SF	776 SF	140 SF			417 SF	1782 SF
LEVEL -1	337 SF	1256 SF	490 SF	66 SF	800 SF		415 SF	2056 SF
LEVEL -2	272 SF	385 SF	83 SF	29 SF	800 SF			1185 SF
TOTAL	1317 SF	5795 SF	2347 SF	205 SF	1600 SF	483 SF	832SF	7878 SF

Figure 2. Project data sheet and corresponding floor plan.

Grading Quantities

The project plans estimate 1,272 cubic yards of cut, with 875 cubic yards of fill. However, as shown on Sheet A16, the project's estimated earthwork is based on the "Line of Terrain After Oakshire Ph. (II-III) Development" and thus only requires ground disturbance for the lower two levels. Based on the existing topographic conditions, three and a half levels of the proposed six-story residence are subterranean. Approximately 35 to 45 feet would be excavated to accommodate the 3.5 subterranean levels. Per staff's calculations, the proposed project requires approximately 4,864 cubic yards of cut. Since the project plans are designed based on nonexistent conditions, the plans do not demonstrate how excavating more than 30 feet deep is feasible or safe for the proposed residence and the surrounding environment. The prepared geotechnical report includes the results from two auger borings with depths of 7.5 feet and 4.5 feet. Neither auger boring hole, which were taken at current topographic conditions, encountered

groundwater. However, without additional information, such excavation would likely cause erosion and soil stability concerns and could require benching the adjacent slopes, which are designated as open space, and constructing large retaining walls.

Height Above Average Natural Grade

The Medium Density Residential zoning district allows main structures to be 30 feet above average natural grade. As a six-story, 67-foot-tall structure, the proposed residence (with an internal ADU and JADU) accomplishes compliance with the maximum height allowed by siting approximately half of the residence below grade (excavating 35 to 45 feet). As discussed above, the current topographical conditions generally correspond with the illustrated “Elevation Line of Natural Terrain”. Based on this grade, the project plans illustrate the proposed residential structure as having a height of 26 feet, 5 inches above average natural grade. Given the inaccuracies of the plans, staff cannot confirm whether the calculated average natural grade is correct, but the plans appear to propose a residence below the maximum allowed height.

PROJECT ISSUES

Design Review

The subject property is located within a Design Control zoning district, which regulates of the location, size, configuration, materials, and colors of structures. Additionally, Carmel Valley Master Plan Policy CV-1.20 requires that “Development either be visually compatible with the character of the valley and immediate surrounding areas or shall enhance the quality of areas that have been degraded by existing development... and structures should be controlled in height and bulk in order to retain an appropriate scale.” Further, the property is subject to the design criteria of the Carmel Valley Ranch Specific Plan, which requires that architectural styles be in keeping with the Carmel Valley setting and tradition (i.e., barn and ranch style), the height and form of structures reflect and complement the character of the landscape setting, natural materials indigenous to the area (i.e., wood, stone, adobe) be used, and exterior colors be confined to those that harmoniously blend with the immediate surroundings (i.e., browns, siennas, beiges, olive greens).

With a height of approximately 26.5 feet above average natural grade, the top one to two stories would be visible from Carmel Valley Road (0.4 miles north). The proposed residence’s visibility from Carmel Valley Road is similar to the visibility of other residences within the area because a majority of the proposed residence is sited below grade.

The 21 developed residential lots within the Oakshire Subdivision range between approximately 3,136 to 5,837 square feet in size. The average residential lot is 3,860 square feet (0.88 acres). Based on staff’s review of the 21 residences within the Oakshire Subdivision, the average single-family dwelling is approximately 3,427 square feet, with individual residences ranging between 2,400 and 4,650 square feet (excluding garage square footage). The average dwelling square footage to lot size ratio is 0.9:1, but individually range between 0.59:1 to 1.3:1. As currently designed, the proposed 15,076 square foot residence (including the proposed ADU and JADU, but excluding the garage and covered and uncovered decks, patios, and exterior staircases) is four times larger than the average residence in the Oakshire subdivision, amounting to a dwelling unit to lot size ratio of 4.27:1. Although the proposed residence is six stories high and a majority of the mass would be entirely below grade, three levels would be visible from Oakwood Circle

Road, whereas neighboring residences only have one to two levels visible from the road level. Most lots within the subdivision have garage lots, that are independent from the main residential lot. These garage lots have consistently only been developed with garages (except for one lot where an ADU was constructed below a garage). No residential development has been approved above a garage on a garage lot. Here, the proposed JADU would be situated above the garage (on the garage lot), which increases the visible bulk and mass.

As designed, the project incorporates a modern-contemporary architectural style that utilizes horizontal wood siding, grey stone exterior, and large expanses of glass windows with black aluminum framing. While the proposed materials, like stone and wood, are in keeping with the natural materials indigenous to the area, the proposed colors of such materials, flat roof, large expanses of glass windows, and multiple material transitions are neither compatible with the neighborhood character or the Carmel Valley Rural setting nor do they blend in with the surrounding natural environment. Further, the geometric, stacked cube-like design of the structure does not break up the form of the building and increases the perceived massing.

Many residences of the Oakshire Subdivision, which were constructed in the late 1990s, consist of more rural architectural types (e.g., split-level ranch or farmhouse) with horizontal board and batten siding. Though it is recognized by HCD-Planning staff that preferred architectural styles are ever-evolving, the proposed residence does not attempt to incorporate rural architectural design features (e.g., board and batten siding, gable, hipped, or low-pitched rooflines, one to two stories, etc.) to be more compatible with Carmel Valley Master Plan and Carmel Valley Ranch Specific Plan requirements.

In conclusion, staff has determined that the appearance of the proposed residence from Oakwood Circle would be visually larger than neighboring residences and has an incompatible neighborhood character due to its bulk, mass, exterior colors, and architectural style. Accordingly, the proposed project is inconsistent with applicable design-related policies of the Carmel Valley Master Plan and Carmel Valley Ranch Specific Plan. Photos of the surrounding neighborhood are attached as **Exhibit E**.

Setbacks

The development standards for the MDR zoning district are identified in Title 21 section 21.12.060. Required setbacks for main structures and attached accessory structures in this zoning district are 20 feet (front), 5 feet (sides), and 10 feet (rear), unless otherwise noted on the recorded final map. The recorded final map for Tract 1045 of the Oakshire Phase II-III Subdivision, illustrates the subject property (Lot 10, with a garage lot [G10]) as being subject to 5-foot setbacks on all sides, except for the garage lot, which does not have setbacks (**Exhibit F**). As designed the proposed residential structure encroaches into the required 5-foot setback on all sides. The footprint of the residential structure extends to the property line on the front, rear, and western sides and is therefore inconsistent with the required setbacks. Pursuant to Title 21 section 21.62.040, uncovered patios may extend three feet into the required side setback and covered patios may extend up to 2.5 feet into the required setback. The project's uncovered and covered patios on the eastern side of the residence encroach into the required setback by approximately 4 feet, and therefore do not comply with the setback exception.

Title 21 Chapter 21.72 (Variances) states, “Modifications to the setback, coverage, height, building site area, and development standard regulations of this Title may be considered by a variance.” HCD-Planning staff informed the Applicant/Owner that a variance is required to modify the required setbacks. However, the Applicant/Owner has declared that a variance is not required because “[the County of Monterey] have never required a variance project for all the other projects [the County of Monterey] have approved to be built into the setback.” Accordingly, the Applicant/Owner is not requesting the necessary entitlement to consider a reduction of the required setbacks from five feet to zero feet.

The Applicant/Owner claims to have reviewed the previously approved planning permits for residential development within the subject subdivision and has compiled a list of properties that encroach into the required setback. This compiled list is also supplemented by information provided by a licensed surveyor. This list alleges that the decks of all 21 residences encroach into required setbacks and in four cases, the structure (footprint) encroaches into the required setback. HCD-Planning staff has reviewed the planning permits for all 21 residences within Oakshire Subdivision and does not concur with the information presented by the Applicant/Owner. In many cases, covered and uncovered patios were approved to encroach one to five feet into the required setbacks with no justification of why such an allowance was made. Due to this privilege enjoyed by a majority of the residences in the area, staff informed the Applicant/Owner that a variance to reduce the required setbacks of decks would be supported by staff in this case. However, the Applicant/Owner continued to contest the need for the variance. Further, contrary to the information provided by the Applicant/Owner, staff’s research found no instance where a planning permit allowed the footprint of the single-family dwelling to encroach into the required setback. Therefore, without the request for and the granting of a variance, the proposed project is inconsistent with Title 21 section 21.12.060.C (Setbacks).

Accessory Dwelling Unit

Title 21 section 21.06.372 defines an Accessory Dwelling Unit as an “attached or detached residential dwelling unit which meets all of the following requirements: does not exceed one thousand two hundred (1,200) square feet; is located on a lot with a proposed or existing primary dwelling; provides complete independent living facilities for one or more persons; and includes permanent provision for living, sleeping, eating, cooking, and sanitation on the same parcel as the proposed or existing single family dwelling or multiple family dwelling is situated.” These requirements are mirrored in the County’s Regulations for Accessory Dwelling Units Ordinance (Title 21 section 21.64.030).

The proposed plans list the Accessory Dwelling Unit as being 1,600 square feet. However, per HCD-Planning staff’s calculations, the Accessory Dwelling Unit appears to be approximately 2,124 square feet (approximately 924 square feet greater than what is allowed). As described in Title 21 section 21.06.372, ADUs are intended to function as independent living quarters and thus require separate access (no internal circulation) and living facilities independent from the main residence’s sleeping, eating, and cooking provisions. Although the proposed ADU has exterior access via a series of staircases, the ADU also has internal circulation with the main residence (see Sheet A5). The lower-level basement and well room are only accessible via the Access Dwelling Unit. Consequently, the proposed ADU is inconsistent with the applicable requirements, specifically size and access. When the ADU’s size and shared internal access were

discussed at the Carmel Valley LUAC, the Applicant/Owner claimed the County did not have Accessory Dwelling Unit regulations. The Applicant/Owner has since been informed of Title 21 section 21.64.030, however revised plans have yet to be received.

Further, because the proposed ADU does not meet the definition of an “Accessory Dwelling Unit,” its habitable area and living provisions are instead considered part of the main residence. Accordingly, the proposed single-family dwelling contains two kitchens, which is inconsistent with the definition of a “Dwelling Unit”, which limits a residential structure to one kitchen (Title 21 section 21.06.370).

Road Access

As mentioned above, the portion of Oakwood Circle Road that abuts the subject property has elevations of 230 feet to 227 feet AMSL. However, the project plans are designed to accommodate a road with an elevation of approximately 203 feet AMSL. Accordingly, the only way to access the proposed garage would be to recontour Oakwood Circle Road and lower the road grade by 27 feet to line up with the proposed garage. Regrading Oakwood Circle Road is not only illogical but, no evidence has been presented that would allow the Applicant/Owner to alter the road, a property not under common ownership, and the proposed 27-foot elevation change of Oakwood Circle Road could impact neighboring residences’ access to the road.

Utilities

California American Water Company (CalAm) provides sewer service to the subject subdivision. As illustrated on the recorded final map for Tract 1045 of the Oakshire Phase II-III Subdivision (**Exhibit F**), a 5-foot “Sanitary Sewer Easement” is conveyed over the eastern portion of the subject property and corresponds with the property’s 5-foot side setback. A sewer main runs through this easement and connects to a manhole just north and south of the property. Per Volume 16, Cities and Towns Map, Page 8, the Sanitary Sewer Easements “are to be kept open and free from buildings and structures not serving the purposes of the easements”. As detailed in the above *Setbacks* discussion, the proposed residential structure encroaches into the required 5-foot setback on all sides but one. On the eastern side, only covered decks, exterior stairs, and a tiled terrace are proposed within the setback. The lower-level terrace would conflict with the restrictions of the sanitary sewer easement. However, the proposed excavation poses a greater conflict. The proposed project’s excavation would cut the entire property’s grade down by 35 to 45 feet. Consequently, the sewer main would be impacted as it is located approximately 18 to 30 inches below the existing grade. Impacting the sewer main could pose unknown public health hazards.

Potable water would be partially provided by CalAm using a 0.30-acre-foot water entitlement purchased from the Malpas Water Company (Water Use Permit No. 582). This water permit would serve approximately 30 fixture units. Based on a review of the project plans, more than 40 fixture units are proposed and thus the purchased water entitlement would not provide sufficient water supply. However, the Applicant/Owner proposes to drill a domestic well to supplement the public water supply. It is unknown whether the well water would serve just a portion of the residential structure (e.g., just the ADU or JADU) or would be mixed with the public water to supply the entire structure. Monterey County Code Chapter 18.05 (Plumbing Code) incorporates by reference the 2022 California Plumbing Code, Code of Regulations, Title 24, Part 5.

Additionally, Monterey County Code Title 15 section 15.08.110 requires the construction, repair, reconstruction of, or deconstruction of wells to be consistent with the standards set forth in the California Department of Water Resources Bulletin No. 74-81. California Plumbing Code Table 721.1 and Section 8 of California Well Standard Bulletin 74-81 & 74-90 require that water supply wells have a minimum horizontal distance of 50 feet from any sewer infrastructure to minimize potential exposure to contaminants. Conflicting with this requirement, the proposed well, sited within the southwest corner of the lowest basement floor, would be within 50 feet of the sewer line that runs through the eastern portion of the property.

As proposed, the project would exceed the planned water use for this property by drilling a domestic well to supplement the allocated 0.3-acre feet of water per year. Policy CV-3.20 of the Carmel Valley Master Plan requires new wells within or near the Carmel Valley Alluvial Aquifer (CVAA) to offset any increase in extractions from this aquifer. The proposed well is approximately 100 feet from the CVAA and could draw water from or have hydrogeological connectivity with the CVAA. Although the Monterey Peninsula Water Management District (MPWMD) does not restrict water usage of private wells located outside of the CVAA, the District would require that the proposed well demonstrate a lack of hydrogeological connectivity to the Monterey Peninsula Water Resource System before it can be utilized. The Monterey Peninsula Water Resource System is defined as the surface water in the Carmel River and its tributaries, groundwater of the Carmel Valley Alluvial Aquifer, and groundwater of the Seaside Groundwater Basis. If the well were to draw water from the CVAA, the Applicant/Owner would have to prove water rights to the extracted water. In this case, the subject property does not currently draw water from the CVAA, and therefore the proposed well would not be allowed to extract water from this aquifer, pursuant to MPWMD Rule 21-1 and System Capacity Limited Rule 40-A. Further, the Monterey Peninsula Water Management District has informed HCD-Planning that it will not issue a water permit for the proposed residence if the structure is to be served by more than one water source (e.g. mixing water sources).

Tree Removal

The project-specific Arborist Report recommends the removal of the property's three Coast live oaks (**Exhibit G**). However, the prepared Arborist Report did not consider the project's excavation or the nearby trees and therefore underestimated the number of trees that would need to be removed to build the project as proposed. Based on staff's site visit, one to two additional trees would need to be removed to accommodate the proposed structure (**Exhibit H**). These two additional trees either straddle the property line or are just west of the property. Staff was unable to discuss the additional trees potentially impacted by the development with the project arborist. Up to five trees on or near the subject property may be significantly impacted by the footprint of the proposed residence. Carmel Valley Master Plan Policy CV-3.11 requires on-site replanting of native trees on a 1:1 ratio. As proposed, the residential structure encroaches into the required 5-foot setbacks on the north, south, and west sides, and a tiled terrace is proposed on the ground level on the eastern. Consequently, all setbacks would be developed. As currently designed, on-site re-planting of up to five Coast live oaks cannot be accommodated and the project conflicts with the requirements of Carmel Valley Master Plan Policy CV-3.11.

In 2017, HCD-Planning issued Tree Removal Permit No. TRM170241 to allow the removal of two dead Coast live oaks (8-inch and 22-inch), subject to one condition of approval. Condition

No. 1 (Tree Replacement) required each tree to be replaced on a 1:1 ratio within the same general location as the trees removed. This condition also required that evidence be provided to HCD-Planning demonstrating that the replacement trees had been replanted within 60 days of permit approval and within one year of replanting, an arborist submit a letter to HCD-Planning reporting on the health of the replacement trees and whether additional replanting is required. Evidence confirming compliance with Condition No. 1 has not been submitted as of date. Consequently, the subject property is in violation of the requirements of Tree Removal Permit No. TRM170241 and its condition. Pursuant to Title 21 section 21.84.050, the violation of any condition imposed by the Planning Commission, Board of Supervisors, Director of Planning, or Zoning Administrator in connection with the granting of a permit constitutes a violation of Title 21 (Zoning Ordinance) and is declared to be a public nuisance. HCD-Planning staff informed the Applicant/Owner of this violation, and no evidence has been produced to abate the violation. Pursuant to Title 21 section 21.84.120, no permit shall be issued when there is an outstanding violation of Title 21. Therefore, the granting of the proposed Combined Development Permit would be inconsistent with Title 21 section 21.84.120.

Slopes

Staff conducted a site visit on August 1, 2024 and confirmed that most of the subject parcel contains slopes in excess of 25 percent (see **Exhibit H**). In order to grant a Use Permit to allow development on slopes in excess of 25 percent, General Plan Policy OS-3.5 requires specific findings to be made: no alternative would allow development to occur on less steep slopes and/or the development on slopes better achieve the resource protection goals, policies, and text of the General Plan. Given the steepness of the entire property, there is no feasible alternative that would allow the entirety of the proposed structure to be sited on less steep slopes. However, as designed and sited, the current proposal maximizes the development on steeper slopes by encroaching into required setbacks and grading 35 to 45 feet down to accommodate the proposed 3.5 subterranean levels.

A feasible alternative that would reduce the amount of disturbance on steeper slopes and better comply with resource protection policies of the Carmel Valley Master Plan and General Plan includes proposing an appropriately sized residence that conforms to the required setbacks and does not propose 35 to 45 feet of excavation. Conforming with the required setbacks is a feasible development alternative that minimizes the amount of disturbance on slopes greater than 25 percent by only siting necessary development on steeper slopes. Further, conforming with the required setbacks would preserve up to three protected trees, which are currently slated for removal. Additionally, reducing the number of subterranean levels is a feasible alternative that would minimize the amount of excavation of slopes in excess of 25 percent. Reducing the amount of excavation would control the amount of potential sedimentation of soils and erosion caused by the land-clearing activities, as required by Chapter 16.12 of the Monterey County Code (Erosion Control).

Compliance with the required setbacks, reducing the number of subterranean levels, and removing only those trees deemed necessary better conforms with the resource protection goals, policies, and text of the Carmel Valley Master Plan and 2010 General Plan, including Policies CV-3.11, CV-3.4, OS-1.2 and OS-3.5, which aim to protect native trees, minimize landform alteration, and control development on steeper slopes. As proposed, the project does not comply

with the required setbacks, proposes 3.5 subterranean levels and approximately 4,864 cubic yards of grading, and removal of up to five protected trees. Therefore, as proposed, the project does not conform with the resource protection goals, policies, and text of the Carmel Valley Master Plan and 2010 General Plan.

Hazards

General Plan Policy S-1.4 discourages development within 50 feet of active faults unless measures recommended by a registered engineering geologist are implemented to reduce the hazard to an acceptable level. In this case, the Tularcitos Fault (known to be active or potentially active) runs through the western half of the subject property. Although the prepared geotechnical report does not specifically mention nearby faults, including the Tularcitos Fault, the soil engineer concludes that the potential for collateral seismic hazards to affect the site and damage the proposed structure is low.